

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MICHAEL JAMES BETTS,

Petitioner,

vs.

RENEE BAKER, *et al.*,

Respondents.

3:11-cv-00422-LRH-WGC

ORDER

This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254, by a Nevada state prisoner. By order filed January 6, 2012, this Court denied petitioner's motions for discovery. (ECF No. 25). On January 17, 2012, petitioner filed a notice of appeal as to the Court's January 6, 2012 order. (ECF No. 26).

In order to proceed with his appeal, petitioner must receive a certificate of appealability. 28 U.S.C. § 2253(c)(1); Fed. R. App. P. 22; 9th Cir. R. 22-1; *Allen v. Ornoski*, 435 F.3d 946, 950-951 (9th Cir. 2006); *see also United States v. Mikels*, 236 F.3d 550, 551-52 (9th Cir. 2001). Generally, a petitioner must make "a substantial showing of the denial of a constitutional right" to warrant a certificate of appealability. *Id.*; 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000). "The petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Id.* (*quoting Slack*, 529 U.S. at 484). In order to meet this threshold inquiry, the petitioner has the burden of demonstrating that the issues are debatable among jurists of reason; that a court could resolve the issues differently; or that the questions are adequate to deserve encouragement to proceed further. *Id.*

1 In the present case, the Court denied petitioner's motions for discovery because petitioner
2 failed to show good cause to conduct discovery in the instant habeas case. *See* Rule 6 of the Rules
3 Governing Section 2254 Cases; *see also Bracy v. Gramley*, 520 U.S. 899, 905-909 (1997). (ECF
4 No. 25). No reasonable jurist could conclude that the Court's order denying discovery was in error.
5 Petitioner is not entitled to a certificate of appealability.

6 **IT IS THEREFORE ORDERED** that petitioner's notice of appeal, construed as an
7 application for a certificate of appealability (ECF No. 26), is **DENIED**.

8 **IT IS FURTHER ORDERED** that the Clerk shall send a copy of this order to the United
9 States Court of Appeals for the Ninth Circuit.

10 Dated this 16th day of May, 2012.



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13 LARRY R. HICKS
14 UNITED STATES DISTRICT JUDGE
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